



PUBLIC NOTICE

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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU ACTION

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU SEEKS INFORMAL COMMENT REGARDING REVISIONS TO THE FEDERAL COMMUNICATIONS COMMISSION'S PART 11 RULES GOVERNING THE EMERGENCY ALERT SYSTEM PENDING ADOPTION OF THE COMMON ALERTING PROTOCOL BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY

EB Docket No. 04-296

Comment Date: [30 days after publication in the Federal Register]

Reply Comment Date: [60 days after publication in the Federal Register]

The Common Alerting Protocol (CAP) is an open, interoperable, data interchange format for collecting and distributing all-hazard safety notifications and emergency warnings to multiple information networks, public safety alerting systems, and personal communications devices.¹ In conjunction with appropriate alert transmission architectures, CAP will allow the Federal Emergency Management Agency (FEMA), the National Weather Service (NWS), a State Governor, or any other authorized initiator of a public alert and warning to automatically format and geo-target a particular alert simultaneously to the public over multiple media platforms such as television radio, cable, cell phones and electronic highway signs. CAP will also allow an alert initiator to send alerts specifically formatted for people with disabilities and for non-English speakers.

The Federal Communication Commission (Commission), in its *Emergency Alert System (EAS) Second Report and Order and Further Notice of Proposed Rulemaking (Second Report and Order)*, mandated that all EAS Participants must accept CAP-based EAS alerts 180 days after the date on which FEMA publishes the applicable technical standards for its adoption of CAP as the basis for FEMA-generated alerts.² On July 30, 2008, FEMA announced its intention to adopt a version of CAP,³ and more

¹ The format was standardized by the Organization for the Advancement of Structured Information Standards (OASIS), a "not-for-profit consortium that drives the development, convergence of open standards for the global information society." The standard could be found at <http://www.oasis-emergency.org/cap>. It is our understanding that a newer version is in the draft stages

² Review of the Emergency Alert System; Independent Spanish Broadcasters Association, the Office of Communication of the United Church of Christ, Inc., and the Minority Media and Telecommunications Council,

recently announced that this adoption may occur as early as the third quarter of 2010.⁴ Such action would trigger the Commission's 180 day requirement.

The Commission's EAS rules, 47 C.F.R. Part 11, were not written to accommodate a CAP-based EAS and will likely require significant revision or replacement once CAP is adopted and implemented, even if CAP-formatted messages continue to be utilized in connection with the alert transmission architectures of the current or "legacy" EAS. In advance of any rulemaking that may need to be conducted by the Commission once FEMA announces its adoption of standards for CAP, the Public Safety and Homeland Security Bureau (PSHSB) seeks informal comment regarding what, if any, Part 11 changes might be necessitated by the introduction of CAP. We ask commenters to identify, with specificity, those rules that need to be modified or deleted, and to suggest new rules for Part 11 – or a new rules framework to replace Part 11 rules. Accordingly, commenters should feel free to address the entirety of Part 11 rules in this regard. For example, commenters may address rules for a CAP-based EAS system architecture, equipment requirements, organization, operations, testing, and access for people with disabilities and non-English speakers. We also ask commenters to consider the degree to which the Commission can implement flexibility into any new rules adopted for Part 11, such that future versions of CAP can be accommodated without further rule changes.

Further, FEMA's adoption of CAP anticipates FEMA's deployment of its Integrated Public Alert and Warning System (IPAWS), which will combine new and innovative technologies and distribution systems with greater redundancy and resiliency for the delivery of emergency alerts. In its *EAS Second Report and Order*, the FCC requires EAS Participants to configure their networks to receive CAP-formatted alerts delivered via any new delivery systems, whether wireline, internet, satellite, or other, within 180 days after the date that FEMA announces the technical standards for the Next Generation EAS.⁵ However, the Commission's rules presently also do not address such alert distribution methods.

Accordingly, we also take this opportunity to ask commenters to identify specific rule changes or additions that they foresee could advance or facilitate introduction of a CAP-based Next Generation EAS architecture. In this regard, we seek comment on the extent to which states already are adopting CAP-based systems for distribution of state and local EAS alerts, and the extent to which any revisions to Part 11 can be adopted in manner consistent with those systems. Again, we urge commenters to consider the degree to which the Commission can and should implement flexibility into its new rules, in order to accommodate future changes to EAS delivery systems without necessitating repeated revisions to Part 11.

Petition for Immediate Relief, EB Docket No. 04-296, *Second Report and Order and Further Notice of Proposed Rulemaking*, 22 FCC Rcd 13275, 13289, ¶ 26 (2007) (*Second Report and Order*).

³ See "FEMA Announces Intention To Adopt Common Alerting Protocol 1.1" *available at* <http://www.fema.gov/news/newsrelease.fema?id=45424> (last accessed Nov. 20, 2009).

⁴ See "FEMA Reaches Milestone With Integrated Public Alert & Warning System" *available at* <http://www.fema.gov/news/newsrelease.fema?id=49848> (last accessed Nov. 20, 2009). The FEMA release indicated that OASIS had voted to approve the OASIS Common Alerting Protocol (CAP) v1.2 USA IPAWS Profile. That document, which is intended as a technical specification detailing how CAP is to be applied to various alerting systems, may be found at: <http://docs.oasis-open.org/emergency/cap/v1.2/ipaws-profile/v1.0/cd03/cap-v1.2-ipaws-profile-cd03.doc>

⁵ *Second Report and Order*, 22 FCC Rcd at 13291, ¶ 32.

What factors should the Commission weigh in determining whether and-or when to implement future rule changes? Should the structure and content of state EAS Plans covered by section 11.21 of the EAS rules be altered to accommodate CAP and, if so, how?

Finally, we seek comment on what rules changes, if any, are necessary to our Part 11 rules to ensure access to a CAP-based EAS by people with disabilities and those who do not speak English. We seek comment on how states that have adopted CAP currently address this issue. We also seek comment on the status of any initiatives or programs developed by, as well as any ongoing discussions among, interested stakeholders to address these issues.

Interested parties may file informal comments addressing these issues on or before the dates indicated on the first page of this document. *See* 47 U.S.C. § 154(i); 47 C.F.R. §§ 0.191(e), and 0.392. All comment and reply comment filings should reference the subject public notice and **EB Docket No. 04-296**. Comments and reply comments may be filed by using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments and reply comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the website for submitting comments.
- For ECFS filers, in completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov and include the following words in the body of the message: "get form." A sample form and directions will be sent in response.
- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to: Secretary, Office of the Secretary, Federal Communications Commission.

- Effective December 28, 2009, all hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. **PLEASE NOTE:** The Commission's former filing location at 236 Massachusetts Avenue, NE is permanently closed.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, M.D. 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554. Parties must also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW, Room CY-B402, Washington, D.C. 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents in **EB Docket No. 04-296** are available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St. SW, Room CY-A257, Washington, D.C. 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

Because of the policy implications, we believe that it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b) and must reference **EB Docket No. 04-296**.

For further information regarding this proceeding, please contact Gregory M. Cooke, Associate Chief, Policy Division, Public Safety and Homeland Security Bureau at (202) 418-2351, or by email: gregory.cooke@fcc.gov.

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